

**SEWARD COUNTY BOARD OF COMMISSION**

**DATE:** February 19, 2013

**TIME:** 5:30 p.m.

**CALL TO ORDER:** Chair Linenbroker

**PLEDGE OF ALLEGIANCE:** Chair Linenbroker

**INVOCATION:** Rex Petty, Liberal Ministerial Alliance

**LOCATION:** 515 N. Washington  
Commission Chambers  
Liberal, KS 67901

**PRESENT**

**COMMISSIONERS:** Jim Rice  
Ada Linenbroker  
CJ Wettstein  
Doug LaFreniere  
Randy Malin

**COUNTY ADMINISTRATION:** April Warden

**CLERK'S OFFICE:** Vanessa Reeve

**CITIZEN COMMENTS:** Larry Phillips with the High Plains Daily Leader, requested the Board of Commissioners to add Resolution 2013-04 to preserve and defend the Second Amendment of the United States Constitution.

Ozzie Ridings invited the Board of Commissioners to attend the National Day of Resistance, Second Amendment Rally at Light Park, Saturday, February, 23, 2013 at 1:00pm.

**1. APPROVE AGENDA: ADDITION/DELETIONS**

**Vice Chair LaFreniere moved to approve the agenda with the addition of Resolutions 2013-03 and 2013-04. Commissioner Rice seconded the motion; motion carried 5-0.**

## 2. CONSENT AGENDA

ITEMS	DATE	AMOUNT	NUMBERS
Minutes	February 4, 2013	N/A	N/A
Payroll	February 15, 2013	\$282,776.93	N/A
Payroll (Sage/OK)	February 15, 2013	\$19,087.96	N/A
Vouchers (2012)	February 19, 2013	\$11,638.14	148129-148148
Vouchers (2013)	February 19, 2013	\$401,482.75	148149-148507

## REQUISITIONS

DEPARTMENT	ITEM	VENDOR	AMOUNT	LINE ITEM
County Technology-Attorney	Desktop Computers (2)	Paragon	\$2,070.00	3-100-31166-250
General Courthouse - Supplies	200 Cases of Copy Paper; 6 cases of 3 hole drilled paper; 4 cases of Legal size paper	Southern Office Supplies	\$7,206.00	3-100-35000-271
EMS	Multiband APX 7000 XTS (4)	Motorola Solutions/Mobile Radio Service	\$7,712.80	3-330-31100-481
Maintenance	72" Cut Zero Turn Riding Mower (1)	Trailers & Trails, LLC	\$9,277.50	3-330-31100-481

**Vice Chair LaFreniere moved to approve the consent agenda. Commissioner Rice seconded the motion; motion carried 4-1 with Commissioner Wettstein abstaining.**

## 3. NEW EMPLOYEES

There were no new employees.

## 4. RESOLUTION 2013-04

**Vice Chair LaFreniere moved to approve Resolution 2013-04 Preserve and Defend the Second Amendment. Commissioner Rice seconded the motion; motion carried 5-0.**

To see Resolution 2013-04 in its entirety, see page 10.

## 5. AG BUILDING WAIVER REQUEST

April Warden, County Administrator requested the Commissioners to waive the \$75.00 rental fee for the Ag Building, so that Mosaic can hold a training meeting for their staff.

**Commissioner Rice moved to waive the \$75.00 rental fee for the Ag Building for Mosaic. Commissioner Malin seconded the motion; motion carried 5-0.**

## 6. RACE TRACK DISCUSSION

Item was tabled for a later time.

## 7. 2013 KDOT NOXIOUS WEED AGREEMENT

Tony Herrman, Seward County Road & Bridge Director, presented the 2013 KDOT Noxious Weed Agreement for approval.

**Commissioner Malin moved to approve the 2013 KDOT Noxious Weed Agreement. Vice Chair LaFreniere seconded the motion; motion carried 5-0.**

## 8. R&B CIP EQUIPMENT

Tony Herrman, Seward County Road & Bridge Director, requested approval to replace a Semi-Tractor that has been on the CIP plan for the last 2 years.

**Commissioner Wettstein moved to approve the purchase of a Semi-Tractor for R&B not to exceed \$45,000 to come from Road & Bridge Equipment fund. Commissioner Malin seconded the motion; motion carried 5-0.**

## 9. APPROVAL OF LANDFILL LEGAL SERVICES AGREEMENT

April Warden County Administrator requested the approval of Devine & Donley, LLC contract and to allow the County Clerk to issue a manual check to pay for the first payment.

**Commissioner Wettstein moved to approval Devine & Donley, LLC contract for \$40,000 with four equal installments of \$10,000 to be split between Landfill and Waste Hauling equally and to allow the Clerk to issue a manual check for \$10,000 to**

**be split between Landfill and Waste Hauling equally.  
Commissioner Malin seconded the motion; motion carried 5-0.**

#### **10. RESOLUTION 2013-02**

**Vice Chair LaFreniere moved to approve Resolution 2013-02 Black Tailed Prairie Dog. Commissioner Malin seconded the motion; motion carried 5-0.**

To see Resolution 2013-02 in its entirety, see page 6.

#### **11. RESOLUTION 2013-03**

**Commissioner Rice moved to approve Resolution 2013-03 Lesser Prairie Chicken. Commissioner Malin seconded the motion; motion carried 5-0.**

To see Resolution 2013-02 in its entirety, see page 8.

#### **12. BC/BS HEALTH CONTRACT RENEWAL**

**Commissioner Wettstein moved to approve the BC/BS Health contract and to have April Warden or Charlott Hill sign the contract. Commissioner Malin seconded the motion; motion carried 5-0.**

#### **13. AQUATERRA PROJECT**

April Warden, County Administrator, gave an update to the Board regarding Aquaterra Project.

**Commissioner Rice moved to approve access to County property to Aquaterra to install an additional offsite groundwater monitoring well. Vice Chair LaFreniere seconded the motion; motion carried 5-0.**

#### **14. ADMINISTRATION COMMENTS**

April Warden, County Administrator presented an update to the Commissioners.

#### **15. COMMISSION COMMENTS**

Each of the commissioners had an opportunity to report on liaison meetings they had attended during the last two weeks.

## 16. SUGGESSTION CARDS

No suggestion cards were discussed.

## ADJOURN

**Commissioner Rice moved to adjourn. Commissioner Malin seconded the motion; motion carried 5-0.**

The meeting adjourned at 6:50 p.m.

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Ada Linenbroker, Chairperson  
Seward County Commission

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Stacia D. Long  
Seward County Clerk

**RESOLUTION NO. 2013-02**

**BLACK TAILED PRAIRIE DOG**

**WHEREAS**, Seward County is aware that a petition has been filed urging the listing of the Black-tailed Prairie Dog as an endangered species,

**WHEREAS**, the Board of Seward County Commissioners have the obligation and responsibility to represent the interests of the people, and the interest of Seward County as a whole in economic stability, a sound environment, the local police powers left to the County and the people under the 10<sup>th</sup> Amendment to the United States Constitution, and to the general health, safety and welfare of the citizens of the County,

**WHEREAS**, Seward County has the authority to serve the interests of its citizens under the Endangered Species Act, particularly but not exclusively to Section 4 of the Act, by requiring the United States Fish and Wildlife Service to consult with and coordinate with the Board of County Commissioners prior to any act of placing such species into the county,

**WHEREAS**, Seward County is aware that Fish and Wildlife is meeting with other commissioners currently in coordinated fashion as contemplated in the regulations issued by the Council on Environmental Quality which sets NEPA rules which will apply to any listing action, some of those other commissioners being in Logan County, Kansas, Owyhee County, Idaho, Glen Lake Irrigation district in Montana, Modoc County in California, and soon with Fremont County, Wyoming;

**WHEREAS**, Seward County is aware that Secretary Salazar made clear on the day that the Owyhee Public Lands Management Act was signed into law on March 30 of this year that this administration would work closely with local government;

**WHEREAS**, the Board of County Commissioners have an obligation to its citizens to exercise the local authority which is recognized by the Endangered Species Act, particularly but not exclusively in Section 4 of the Act,

**THEREFORE IT IS HEREBY RESOLVED** by the Board of Seward County Commissioners that this County is formally asserting its authority to insist on coordination with the United States Fish and Wildlife Service and any associated federal agency or state agency working with and in conjunction with Fish and Wildlife regarding the listing of the Black-tailed Prairie dog and regarding any other action taken in or contemplated in our County regarding species.

**IT IS FURTHER RESOLVED** that by executing this Resolution, Seward County serves notice on the Secretary of Interior and any and all persons and agencies under his jurisdiction, and on any other Cabinet member who has authority to act under the Endangered Species Act, of the existence of Seward County's policy against listing the Black-tailed Prairie Dog as endangered, when the facts show that by numbers and by resilience at the very least it does not need protecting as a species.

**IT IS FINALLY RESOLVED** that by executing this Resolution, Seward County serves notice to all the persons and agencies identified in the previous paragraph of this Resolution of their obligation under the Endangered Species Act to notify Seward County in advance of any planned action identified in this Resolution and to consult and coordinate with the county prior to any such planned action, and of the County's authority to insist upon such notice and consultation and coordination under Chapter 4 of the Endangered Species Act.

**SIGNED AND DATED THIS 19<sup>th</sup> DAY OF FEBRUARY, 2013.**

BOARD OF COUNTY COMMISSIONERS:  
SEWARD COUNTY, KANSAS

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Ada Linenbroker  
Chair, Seward County Board of Commissioners

ATTEST:

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Stacia D. Long, County Clerk

**RESOLUTION NO. 2013-03**

**A Resolution introduced by Seward County, Kansas in opposition of placing the Lesser Prairie Chicken on the Endangered Species List**

**WHEREAS**, the U.S. Fish and Wildlife Service is proposing to list the Lesser Prairie Chicken, scientific name *Tympanuchus pallidicinctus*, as a threatened or endangered species;

**WHEREAS**, the listing of the Lesser Prairie Chicken as a threatened or endangered species will create a wide range of adverse effects upon communities, industries, and people who are located within, reside, ranch, farm, and use the millions of acres of public and private lands identified as Lesser Prairie Chicken habitat in the states of Colorado, Kansas, New Mexico, Oklahoma and Texas;

**WHEREAS**, thousands of Kansans in agricultural, oil and gas energy operations depend on reasonable access to their job sites in the affected areas to financially support their families and the communities in which they reside;

**WHEREAS**, the loss of the robust agriculture, oil and gas and energy employment sectors in the region will also adversely impact thousands of support jobs necessary to sustain the region's economic health and vitality;

**WHEREAS**, local industries and employment sectors are already actively taking actions for mitigation and protecting wildlife and native species, including the Lesser Prairie Chicken; and

**WHEREAS**, the scope of protection offered by U.S. Fish and Wildlife Service in listing the Lesser Prairie Chicken as "threatened" is excessive and will result in harm to working families, local industries and communities, as well as the State of Kansas.

**WHEREAS**, the detrimental effect on the local community would be devastating as agricultural production, oil and gas exploration and energy development would be severely limited as a result of the Lesser Prairie Chicken being placed on the Endangered Species List.

**WHEREAS**, the Seward County Board of County Commissioners is elected to represent the citizens of Seward County to assure the health, welfare and safety of all citizens.

**NOW THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF SEWARD COUNTY, KANSAS:**

- 1. OPPOSE** the listing of the Lesser Prairie Chicken, *Tympanuchus pallidicinctus*, as a threatened and/or endangered species;
- 2. ENCOURAGE** the Kansas Congressional Delegation to work vigorously to defeat the U.S. Fish and Wildlife Service proposed listing of this species;
- 3. ENCOURAGE** all cities, local chambers of commerce, civic organizations, and all citizens of Seward County to become engaged in the listing process and officially comment to U.S. Fish and Wildlife Service of the adverse impacts the proposed listing will have on them, our community and our state;



4. **REQUEST** Governor Brownback to actively participate with Kansas Counties in opposing the listing of the Lesser Prairie Chicken, and to secure resources from experts within the Kansas Department of Wildlife, Parks and Tourism, Department of Agriculture, Department of Commerce, Kansas Corporation Commission, University of Kansas, Kansas State University, Fort Hays State University, and/or any other state colleges and universities to assist the counties in their effort to oppose U.S. Fish and Wildlife Service proposed listing;

5. **SECURE** from our local Senators and Representatives a commitment to support Seward County in this effort and to encourage other Kansas legislators to join the counties and state in opposing U.S. Fish and Wildlife Service proposed listing;

6. **SEND** a copy of this resolution to the Kansas Congressional delegation, Governor Brownback, President of the Kansas Senate and Speaker of the Kansas House of Representatives, the following Kansas Counties: Barber, Barton, Clark, Comanche, Edwards, Ellis, Finney, Ford, Gove, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Lane, Logan, Meade, Morton, Ness, Pawnee, Pratt, Rush, Scott, Seward, Sherman, Stafford, Stanton, Stevens, Trego, Wallace, and Wichita, the Kansas Association of Counties; Kansas Department of Wildlife, Parks and Tourism, Department of Agriculture, Department of Commerce, Kansas Corporation Commission, United States Secretary of Interior, United States Fish and Wildlife Service; and local media outlets.

This Resolution was approved and adopted this 19th day of February, 2013.

BOARD OF COUNTY COMMISSIONERS:

SEWARD COUNTY, KANSAS

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Ada Linenbroker, Chair

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Doug LaFreniere, Vice-Chair

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C.J. Wettstein, Member

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Randy Malin, Member

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Jim Rice, Member

ATTEST:

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Stacia D. Long, Seward County Clerk

**RESOLUTION NO. 2013-04**

**A RESOLUTION TO PRESERVE AND DEFEND THE SECOND  
AMENDMENT OF THE UNITED STATES CONSTITUTION**

**WHEREAS**, the Second Amendment of the Constitution of the United States of America states that “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed”; and

**WHEREAS**, the Supreme Court of the United States in two recent cases, *District of Columbia v. Heller and McDonald v. Chicago*, has held that the right to keep and bear arms is an individual right; and

**WHEREAS**, the Board of County Commissioners of Seward County, Kansas desires to adopt a formal Resolution to preserve and defend the Second Amendment of the United States Constitution.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of County Commissioners of Seward County, Kansas, sitting in a duly called session on this that: The County of Seward, Kansas will not enforce any unlawful and unconstitutional statutes, executive orders or other regulations and proclamations which conflict, and are expressly preempted, by the United States Supreme Court’s rulings on the right of an individual to keep and bear arms; and

**BE IT FURTHER RESOLVED**, that the Board of County Commissioners of Seward County, Kansas calls upon the United States Congress, the Governor of the State of Kansas and all elected officials of the State of Kansas to preserve and defend the Second Amendment of the Constitution of the United States as an individual right of the citizens of the State of Kansas and to nullify any statutes, executive orders or other regulations and proclamations that infringe on the right of an individual to keep and bear arms.

This Resolution was approved and adopted this 19th day of February, 2013.

BOARD OF COUNTY COMMISSIONERS:

SEWARD COUNTY, KANSAS

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Ada Linenbroker, Chair

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Doug LaFreniere, Vice-Chair

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C.J. Wettstein, Member

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Randy Malin, Member

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Jim Rice, Member

ATTEST:

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Stacia D. Long, Seward County Clerk